

Appl. No. : 10/799,362
Filed : March 12, 2004

REMARKS

Claims 1-10 and 12-40 are pending. Claims 1, 13, 14, 15, 22, 25, 26, 28, 31, 33, and 36 have been amended. Support for the amended claims can be found throughout the specification and original claims, for example, in original Claims 11, 26, and 28, Figure 4, and paragraphs 0015 and 0071. No new matter has been added by these amendments. Claim 11 has been cancelled because it has been incorporated into Claim 1. This is not a surrender of subject matter and Applicants reserve the right to pursue the subject matter at a later point in time.

As an initial point, Applicants note that the present amendments merely incorporate an element previously presented in Claim 11; thus, the entry of the amendments and consideration of the remarks is appropriate after a Final Office Action as they raise no new issues and do not require an additional search. Furthermore, Applicants note that it does not appear as though the Examiner has formally rejected or commented on Claim 11 previously. As such, Applicants respectfully submit that the finality of the previous "Final" Office Action is improper, as not every claim has been properly rejected.

Claims 1, 13, 14, 22, 25, and 26 are novel and nonobvious

Independent Claims 1, 13, 14, 22, 25, and 26 have been amended to recite the presence of a housing containing the flow controller (or valve) and the hose reel device (or reel drum). This element is absent from the cited art. As such, not all of the elements have been taught, and a *prima facie* case of obviousness has not been established. Applicants note that this applies to Claims 1-10, 12, 13, 14, and 22-27. The prior art teaches a standalone remote-controlled flow controller (Eriksen et al.) and a remote-controlled reel (DeVito), but does not suggest enclosing both in a single housing to provide an integrated unit.

Claims 15, 18, 21, 28, 31-34, 36, and 37 are Novel and Nonobvious over Rudrich.

Claims 15, 18, 21, 28, 31-34, 36, and 37 have been rejected as anticipated by Rudrich (U.S. Pat. No. 5,651,384). Applicants note that the relevant independent claims, Claims 15, 28, 33, 36, and 37 were previously amended to recite either the presence of a remote control to send the wireless commands to control the valve and/or motor or a step involving receiving the

wireless command signal from a remote control. In the "Final" Office Action, the Examiner has asserted that the cited prior art can anticipate the presently recited elements as long as the prior art is capable of performing this function. Applicants respectfully submit that the Examiner has improperly ignored the explicitly recited elements in the claims. In particular, Applicants note that the previously submitted claims include explicit elements that recite more than mere "configured for" language.

First, Applicants note that Claims 15, 18, 21, 33, and 34 include an actual remote control. This is not taught (or even asserted as taught) in the cited art. Applicants note that a remote control is a physical element and must be given the appropriate weight. As such, it is clear that the cited art cannot anticipate the above claims as not every element has been taught by the reference. Moreover, as explained below, using a remote control is incompatible with Rudrich's purpose of avoiding physical contact.

Second, Applicants note that Claims 28, 31, and 32 are method claims. Claim 28 requires that a signal be received from a remote control (see the second element). Similarly, Claims 36 and 37 are method claims that require that a signal be received from a remote control. Applicants have amended Claims 15, 28, 31, 33, and 36 to further clarify this point. As Rudrich does not teach a remote control, it is clear that it cannot anticipate the present claims. As such, it is clear that the cited art cannot anticipate the above claims as not every element has been taught by the reference.

Applicants note that the Examiner's argument regarding "configured to" is moot because the claimed methods and devices also have positively recited elements that have not been taught in the cited art. Nonetheless, we note that Rudrich's device is not configured to receive wireless signals from a remote control, as claimed.

Claims 15, 18, 21, 28, 31-34, 36, and 37 are Nonobvious over Rudrich, DeVito, and Ericksen.

In addition to the above rejection, the Examiner has also rejected the above claims in light of the teachings of Rudrich, DeVito, and Ericksen. Applicants respectfully traverse the rejection. Applicants note that one of skill in the art would not have had a reason to combine or use a remote control with the teachings in Rudrich. Applicants note that the device in Rudrich is arranged so as to run water when one is near the actual device, meaning that operation via

separate remote control isn't an important factor or issue. More importantly, the use of a remote control for Rudrich's device would require physical contact with a remote control (of a user with a remote control) to turn on the water, which would defeat the purpose of these sensors in Rudrich (which is to allow patrons to avoid contacting surfaces during use). Applicants respectfully note that modifications that defeat the intended purpose of a device are generally impermissible modification/combinations. ("If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)" M.P.E.P. §2143.01)

Finally, Applicants note that the pulse train in Rudrich is explicitly there in order to prevent externally derived signals (e.g., from a remote control) from accidentally activating the device (e.g., col. 1, lines 30-43). Therefore, Rudrich actually appears to teach away from a remote control, as the device in Rudrich is designed to ignore external signals. As the Examiner is aware, it is improper to combine references when the references teach away from their combination. ("It is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983)" M.P.E.P. §2145). Applicants respectfully request that the rejection be withdrawn and the claims allowed.

Finally, in regard to the "configured to language" that the Examiner is choosing to ignore, Applicants note that actual positive elements regarding these differences are also recited in the above claims (e.g., the presence of a remote control in the apparatus claims or receiving a signal from a remote control in the method claims). As such, even assuming that the Examiner's arguments are correct (which Applicants are not conceding), these elements would still have to be given patentable weight by the Examiner. Moreover, Rudrich's device is not configured to receive wireless signals from a remote control, as presently claimed.

Claims 1, 14, 22, 25 are nonobvious over the combination of DeVito, Ericksen, and Carrio

Claims 1, 14, 22, and 25 were previously amended so that the remotely controlled hose reel can be remotely controlled to both wind and unwind a hose. The Examiner has asserted that Carrio (U.S. Pat. No. 4,690,181) teaches "a remote control ... configured to command the motor to both wind and unwind the hose about the drum (see Col 5 lines 35-41)." However, the cited

section of Carrio does not mention a remote control or a remotely operated reel. Moreover, as the reel device is located on the ship (as opposed to the seafloor), there appears to be little reason for why one of skill in the art would want or need a wireless remote control to operate the reel. In light of this, it is clear that the cited reference does not teach what the Examiner is asserting it teaches. As such, a *prima facie* case of obviousness has not been established because all of the elements have not been taught by the Examiner's proposed combination. Applicants respectfully request that the rejection be withdrawn and the claims allowed.

Applicants note that the Examiner has relied on Carrio in rejecting Claims 1-10, 12-14, 22-27, 35, and 38-40. As Carrio does not actually teach the element asserted as taught by the Examiner, this reference cannot be used to establish the presence of this element in the prior art. As such, a *prima facie* case of obviousness has not been established in regard to these claims either because all of the elements have not been taught by the Examiner's proposed combination. As such, Applicants request that the rejections be withdrawn and the claims allowed.

Claims 22, 23, 35, 38, and 39 are nonobvious over Erickson and Lutz

The Examiner has again asserted that Claims 22, 23, 35, 38, and 39 are obvious in light of Lutz. The Examiner has asserted that Lutz teaches reducing the voltage to a valve before the valve is intended to stop. In making this rejection, the Examiner relies on cited sections (figure 3 and Col. 2 lines 19-37), which actually appear to teach that the device is stationary during the reduced voltage. In particular the cited sections note the following:

supplying a large magnitude regulated switching current to the solenoid valve coil to achieve switch on of the solenoid valve armature... reducing the switching current magnitude to a lower level which is sufficient to hold the armature in the switch on position.

(emphasis added, Col. 2, lines 19-24 and see also Col. 3, lines 6-20 (explaining that at value i_3 (at time t_1) that the solenoid is fully switched on, which, according to FIG. 3, occurs prior to the decrease in current)). Thus, it is clear that Lutz teaches that a large amount of current is supplied to switch on the valve, and that the reduction only occurs after the valve armature is held in the on position. As such, Lutz does not teach the relevant power control unit or method step. Therefore, the cited art does not include each of the claimed elements and a *prima facie* case of obviousness has not been established.

Furthermore, it is clear that none of the cited references teaches a common housing, as recited in Claims 22 and 23; thus, these claims are nonobvious for this additional reason as well.

Claims 22, 24, 38, and 40 are nonobvious over DeVito in view of Conner and Carrio.

The Examiner has asserted that Claims 22, 24, 38, and 40 are obvious in light of DeVito, Conner and Carrio. In doing so, the Examiner has asserted that Conner “discloses a power control unit configured to reduce power consumption....” However, the cited sections in Conner do not appear to be directed to power conservation, but rather optimizing other aspects, such as improving a flux profile. Applicants note that the improved flux profile does not necessarily result in the recited power conservation aspects. In other words, just because there is a change in voltage, does not mean that there must be a conservation in power (for example, if a larger initial force was used to achieve some effect, the resulting power use could actually be greater). Indeed, it appears that the device in Conner uses more current than the standard device (as shown in Figure 3A, in which the current of the taught device starts above that of a traditional or conventional system). Because the device in Conner appears to use more current than the conventional device, it should not be considered to be a “power control unit configured to reduce power consumption...” Indeed, if anything, Conner is teaching the use of more current to achieve faster ramp up times, rather than less voltage, to conserve power. As such, not all of the elements have been taught by the cited art and a *prima facie* case of obviousness has not been established. Applicants request that the rejections be withdrawn and the claims allowed.

Claim 7 is nonobvious over Ericksen

Claim 7 recites that the electronic components can be configured to position the valve at a plurality of positions between open and closed, thus allowing for controlling the rate of flow in addition to the on and off states. The Examiner has asserted that the abstract of Ericksen teaches “a plurality of positions between a open and closed position.” (“Final” Office Action, page 4). Applicants respectfully disagree. Applicants note that the abstract of Ericksen provides “a flow control to control the flow rate of the valve from 0 fluid flow rate to maximum fluid flow rate.” As such, Applicants note that Ericksen teaches only an open or closed position. There is nothing in the abstract regarding the possibility of intermediate positions of the valve. Thus, the recited

Appl. No. : 10/799,362
Filed : March 12, 2004

element in Claim 7 has not been taught in the cited section of Ericksen. As such, a *prima facie* case of obviousness has not been established.

Applicants note that the dependent claims are novel and nonobvious as they depend from novel and nonobvious independent claims (as noted above). Moreover, Applicants note that the dependent claims recite additional elements that provide further patentable distinctions between the cited art and the claimed inventions.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that the pending claims are in condition for allowance and request the same. If, however, some issue remains that the Examiner feels can be addressed by Examiner Amendment, the Examiner is cordially invited to call the undersigned for authorization.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 6/1/07

By: 

Eli A. Loots
Registration No. 54,715
Attorney of Record
Customer No. 20,995
(415) 954-4114